Babulal & Ors. vs. Board of Revenue & Ors.

SB Civil Writ. Petition No.2674/1985

Date of Order: 28th November , 2006.

PRESENT

HON'BLE MR.JUSTICE BHAGWATI PRASAD

Mr.Manish Shishodia for the petitioner/s.
Mr.Sudhir Sharma for the respondent/s.

BY THE COURT:

Heard.

The present writ petition is filed against an order of the Board of Revenue by virtue of which the suit of the petitioners was dismissed.

The case of the petitioner was that he had a khatedari land earlier possessed by one Ganesh. These lands were in possession of Lal Singh and Man Singh since 1990. Ganesh died issue-less in Samwat 2004. His mother had contracted 'Nata' elsewhere and Ganesh died issue-less, therefore, the property vested in the then Thikana Nathdwara under the provisions of the Escheat Act. The property was given to Lal Singh and Man Singh on

Nazrana. The plea of the plaintiffs was not accepted and the reasoning given by the courts, below including the Board of Revenue , was that since Mst. Rodi mother of Ganesh survived Ganesh , it cannot be said that Ganesh died heir less and since Ganesh had a heir in Mst.Rodi the land could not go in escheat to the Thikana and, therefore Thikana was not competent to grant 'Patta' in favour of Lal Singh and Man Singh. Thus, one ground taken by the petitioner was negated by operation of law that Thikana was not competent to any grant in favour of Lal Singh and Man Singh.

Another theory with which the plaintiffs came was that the plaintiff Man Singh mortgaged the possession of land. The mortgage deed is an unstamped and unregistered document, regarding which it was held that the document does not establish a mortgage. A subsequent mortgage is also pleaded. This document is also unstamped and unregistered. The mortgage document in respect of the land has allegedly a support from a 'bahi' which was not produced. The Revenue Board held that no secondary evidence could be adduced to support the unstamped and unregistered document. The Revenue Board held that the plaintiff appellants have failed to establish that they are khatedar tenants of the suit land. All these questions are questions of fact, which have been held by the Board of

Revenue by cogent evidence. It has also been held that the appellants were never in possession of the land in question. In that view of the matter, they were not held entitled to possess the land and the suit was dismissed.

For the reasons stated by the Revenue Board, this Court also feels that no interference is called for, as the findings on questions of fact cannot be disturbed which is supported by sound reasoning. Thus, no interference is called for. The writ petition is dismissed.

(BHAGWATI PRASAD), J.

L.George